

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KONINKLIJKE PHILIPS N.V.,

Plaintiff

v.

TELIT IOT SOLUTIONS, INC. (f/k/a
TELIT WIRELESS SOLUTIONS,
INC.); TELIT COMMUNICATIONS
LIMITED (f/k/a TELIT
COMMUNICATIONS PLC),

Defendants.

Civil Action No.: 20-1708-CFC

JURY TRIAL DEMANDED

DECLARATION OF LUCAS I. SILVA IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT
VOLUME 1 – (DECLARATION; EXHIBITS 1-20)

Of Counsel:

Eley O. Thompson (*pro hac vice*)
FOLEY & LARDNER LLP
321 N. Clark Street
Suite 2800
Chicago, IL 60654-5313
Phone: (312) 832-4359
Fax: (312) 832-4700
ethompson@foley.com

Kevin M. Littman (*pro hac vice*)
Lucas I. Silva (*pro hac vice*)
FOLEY & LARDNER LLP
111 Huntington Avenue
Suite 2500
Boston, MA 02199-7610
Phone: (617) 342-4000
Fax: (617) 342-4001
klittman@foley.com
lsilva@foley.com

YOUNG CONAWAY STARGATT &
TAYLOR, LLP
Adam W. Poff (No. 3990)
Robert M. Vrana (No. 5666)
Alexis N. Stombaugh (No. 6702)
Rodney Square
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
apoff@ycst.com
rvrana@ycst.com
astombaugh@ycst.com

*Attorneys for Plaintiff KONINKLIJKE
PHILIPS N.V.*

Dated: August 23, 2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KONINKLIJKE PHILIPS N.V.,

Plaintiff,

v.

TELIT WIRELESS SOLUTIONS, INC.,
TELIT COMMUNICATIONS PLC,

Defendant.

C.A. No.: 20-01708 (CFC)

**DECLARATION OF LUCAS I. SILVA IN SUPPORT OF
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

I, Lucas I. Silva, declare as follows:

1. I am an attorney at Foley & Lardner LLP, counsel to Plaintiff Koninklijke Philips N.V. (“Philips”).
2. I make this declaration in support of Philips’s Motion For Summary Judgment of Pursuant to Fed. R. Civ. P. 37(c)(1).
3. I have personal knowledge of the facts set forth herein and, if called to testify in this matter, could and would testify to the following facts.
4. Attached as **Exhibit 1** is a true and correct copy of ETSI Directives, Version 46, bearing Bates Nos. KPNV0038060-310, dated December 12, 2022.
5. Attached as **Exhibit 2** is a true and correct copy of Letter to ETSI from Philips re Patent License Undertaking UMTS radio access methods, bearing Bates No. KPNV0037420, dated January 15, 1998.

6. Attached as **Exhibit 3** is a true and correct copy of Letter to ETSI from Philips re UMTS Patent Declaration, bearing Bates Nos. KPNV0000646-69, dated September 2, 2003.

7. Attached as **Exhibit 4** is a true and correct copy of ETSI IPR Information Statement and Licensing Declaration by Koninklijke Philips Electronics N.V., bearing Bates Nos. KPNV0000699-714, dated November 26, 2009.

8. Attached as **Exhibit 5** is a true and correct copy of ETSI IPR Information Statement and Licensing Declaration by Koninklijke Philips Electronics N.V., bearing Bates Nos. KPNV0000715-22, dated December 3, 2014.

9. Attached as **Exhibit 6** is a true and correct copy of the Amended Rebuttal Expert Report of Jean-Sébastien Borghetti, dated April 28, 2023.

10. Attached as **Exhibit 7** is a true and correct copy of the Amended Expert Report of Johanna Dwyer, dated April 27, 2023.

11. Attached as **Exhibit 8** is a true and correct copy of the Rebuttal Expert Report of Dr. Bertram Huber, dated April 19, 2023.

12. Attached as **Exhibit 9** is a true and correct copy of the Expert Report of Antti Toskala, dated April 26, 2023.

13. Attached as **Exhibit 10** is a true and correct copy of the Rebuttal Expert Report of Dirk Weiler, dated April 26, 2023.

14. Attached as **Exhibit 11** is a true and correct copy of the Sur-Reply Expert Report of Antti Toskala, dated June 30, 2023.

15. Attached as **Exhibit 12** is a true and correct copy of the Sur-Reply Expert Report of Dirk Weiler, dated June 28, 2023.

16. Attached as **Exhibit 13** is a true and correct copy of Telit IoT Solutions, Inc.'s First Supplemental Objections and Responses to Plaintiff's First Set of Interrogatories To Telit IoT Solutions, Inc. and Telit Communications Ltd., dated December 29, 2022.

17. Attached as **Exhibit 14** is a true and correct copy of excerpts from the deposition of Matthew Baker, dated January 20, 2023.

18. Attached as **Exhibit 15** is a true and correct copy of excerpts from the Expert Report of Dr. Paul Min, dated March 10, 2023.

19. Attached as **Exhibit 16** is a true and correct copy of excerpts from the Expert Report of Dr. Philippe Stoffel-Munck, dated March 10, 2023.

20. Attached as **Exhibit 17** is a true and correct copy of the Reply Expert Report of Dr. Matthias Schneider, dated June 7, 2023.

21. Attached as **Exhibit 18** is a true and correct copy of excerpts from the deposition of Paul Lin, dated July 14, 2023.

22. Attached as **Exhibit 19** is a true and correct copy of excerpts from the deposition of Matthias Schneider, dated July 19, 2023.

23. Attached as **Exhibit 20** is a true and correct copy of excerpts from the deposition of Dr. Philippe Stoffel-Munck, dated July 11, 2023.

24. Attached as **Exhibit 21** is a true and correct copy of Comments of Pete Hizzy of ICOMN bearing Bates Nos. KPNV0008233-35, dated January 13, 2003.

25. Attached as **Exhibit 22** is a true and correct copy of Document re ETSI GA#40 creation of ad-hoc group bearing Bates Nos. KPNV0008244-46.

26. Attached as **Exhibit 23** is a true and correct copy of Open Letter to ETSI bearing Bates Nos. KPNV0008242-43, dated January 13, 2003.

27. Attached as **Exhibit 24** is a true and correct copy of ETSI GA ahg on IPR#1 ETSI GA/IPR01(03)21 rev. 2, Sophia Antipolis, 23-24 January 2003, Secretary's meeting notes bearing Bates Nos. KPNV0008296-310, dated February 24, 2003.

28. Attached as **Exhibit 25** is a true and correct copy of ETSI GA ahg on IPR#2 ETSI GA/IPR02(03)02, Sophia Antipolis, 3-4 March 2003, Document for Discussion re Issues arising from Late submission of IPR Declarations (Issue 02) bearing Bates Nos. KPNV0008356-63, dated February 19, 2003.

29. Attached as **Exhibit 26** is a true and correct copy of ETSI GA ahg on IPR#2 ETSI GA/IPR02(03)08, Sophia Antipolis, 03-04 March 2003, Document for Discussion re Timely disclosure of essential IPRs (Issue 1) bearing Bates Nos. KPNV0008344-46, dated February 27, 2003.

30. Attached as **Exhibit 27** is a true and correct copy of ETSI GA ahg on IPR#2 ETSI GA/IPR02(03)14 rev. 1, Sophia Antipolis, 3-4 March 2003, Secretary's meeting notes bearing Bates Nos. KPNV0008364-83, dated May 15, 2003.

31. Attached as **Exhibit 28** is a true and correct copy of ETSI GA ahg on IPR#2 ETSI GA/IPR03(03)03, Sophia Antipolis, 19-20 May 2003, Document for Discussion re Issue arising from Late Submission of IPR Declaration (Issue 02) bearing Bates Nos. KPNV0008738-44, dated May 2, 2003.

32. Attached as **Exhibit 29** is a true and correct copy of ETSI GA ahg on IPR#3 ETSI GA/IPR03(03)17, Sophia Antipolis, 19-20 May, 2003, Secretary's meeting notes bearing Bates Nos. KPNV0008753-69, dated May 20, 2003.

33. Attached as **Exhibit 30** is a true and correct copy of ETSI GA ahg on IPR#4 ETSI GA/IPR04(03)02, Sophia Antipolis, 18-19 June 2003, Discussion re Issues arising from Late

submission of IPR Declarations (Issue 02) bearing Bates Nos. KPNV0008602-06, dated May 29, 2003.

34. Attached as **Exhibit 31** is a true and correct copy of ETSI GA ahg on IPR#5 ETSI GA/IPR05(03)02 Rev. 2, Mainz, 26 September 2003, Document for Discussion re Resume of status of Recommendations under each "issue" and preparation for reporting to GA#42 bearing Bates Nos. KPNV0008482-515, dated September 24, 2003.

35. Attached as **Exhibit 32** is a true and correct copy of ETSI GA ahg on IPR#5 ETSI GA/IPR05(03)13, Rev. 3, Mainz, 26 September 2003, Document for Discussion re Status of Recommendations under each "issue" and preparation for reporting to GA#42 (post IPR#5 meeting) bearing Bates Nos. KPNV0008520-43, dated October 21, 2003.

36. Attached as **Exhibit 33** is a true and correct copy of ETSI 42nd General Assembly Meeting ETSI/GA#42(03)20 Rev. 1, Nice, 25-26 November 2003, Document for Decision re Report of the GA ad hoc group on ETSI's IPR Policy operation (with Annex A deleted by GA#42) bearing Bates Nos. KPNV0020510-36, dated August 14, 2003.

37. Attached as **Exhibit 34** is a true and correct copy of ETSI 42nd General Assembly Meeting ETSI/GA#42(03)32, Nice, 25-26 November 2003, Document for Information re Result of vote 1 (on the report from the GA ad hoc group on IPR policy operation) bearing Bates No. KPNV0020537, dated November 26, 2003.

38. Attached as **Exhibit 35** is a true and correct copy of ETSI Directives bearing Bates Nos. KPNV0012981-13102, dated December 2004.

39. Attached as **Exhibit 36** is a true and correct copy of ETSI Board#48, ETSI/B48(04)16, Sophia Antipolis, 1-2 September 2004, Document for Decision re ETSI Guide on IPRs bearing Bates Nos. KPNV0010751-74, dated August 4, 2004.

40. Attached as **Exhibit 37** is a true and correct copy of ETSI Board#18 ETSI/B18(99)06 Sophia Antipolis, 23-25 March 1999, Document for Decision re Redrafting of the ETSI IPR forms for IPR Information Statement and IPR Licensing Declaration bearing Bates Nos. KPNV0009216-27, dated March 11, 1999.

41. Attached as **Exhibit 38** is a true and correct copy of ETSI Board#39 ETSI/B39(02)02 Munich, 28-29 August 2002 Document for Discussion re ETSI IPR Policy - The DIIS (Digital Interchange of Information and Signaling) protocol bearing Bates Nos. KPNV0009206-07, dated July 26, 2002.

42. Attached as **Exhibit 39** is a true and correct copy of ETSI Directives, Version 005 bearing Bates Nos. KPNV0014912-75, dated March 1993.

43. Attached as **Exhibit 40** is a true and correct copy of ETSI Directives, Version 007 bearing Bates Nos. KPNV0015422-66, dated November 1994.

44. Attached as **Exhibit 41** is a true and correct copy of Collective Letter No. 640 to ETSI Members, Observers and Counsellors re Letter from IBM re IBM Comments on ETSI IPR Framework bearing Bates Nos. KPNV0020682-703, dated January 25, 1993.

45. Attached as **Exhibit 42** is a true and correct copy of ETSI 15th General Assembly ETSI/GA 15 (93) 32, Nice, 16-18 March 1993, Document for Discussion and decision re TSI IPR Policy bearing Bates Nos. KPNV0043504-10, dated February 12, 1993.

46. Attached as **Exhibit 43** is a true and correct copy of Collective Letter No. 900 from ETSI to Members, Observers and Counsellors of ETSI re CBEMA Complaint bearing Bates No. KPNV0020707, dated February 28, 1994.

47. Attached as **Exhibit 44** is a true and correct copy of ETSI Temp Doc 13, 22nd General Assembly, Nice, 30 March 1995, Document for Information re Notice in the Official

Journal concerning the ETSI IPR Policy bearing Bates Nos. KPNV0020569-74, dated March 30, 1995.

48. Attached as **Exhibit 45** is a true and correct copy of ETSI/GA15 (93) 34 Draft Minutes of the 15th General Assembly of ETSI bearing Bates Nos. KPNV0008190-230.

49. Attached as **Exhibit 46** is a true and correct copy of Collective Letter No. 793 to ETSI Members, Observers and Counsellors re Letter from Digital dated August 19, 1993 re the signature of the ETSI IPR Undertaking bearing Bates Nos. KPNV0020704-05, dated October 21, 1993.

50. Attached as **Exhibit 47** is a true and correct copy of ETSI 15th General Assembly ETSI/GA 15 (93) 18, Nice, 16-18 March 1993 Document for Discussion and Decision re Comments on ETSI Intellectual Property Rights Framework bearing Bates Nos. KPNV0020365-76, dated February 9, 1993.

51. Attached as **Exhibit 48** is a true and correct copy of ETSI 15th General Assembly ETSI/GA 15 (93) 20, Nice, 16-18 March 1993 Document for Discussion and Decision re Simplified IPR Undertaking bearing Bates Nos. KPNV0020379-86, dated February 8, 1993.

52. Attached as **Exhibit 49** is a true and correct copy of ETSI/GA17(93)3 Document for Information re Letters from ETSI Members regarding the signature of the ETSI IPR Undertaking bearing Bates Nos. KPNV0008091-98, dated June 4, 1993.

53. Attached as **Exhibit 50** is a true and correct copy of Collective Letter No. 837 to ETSI Members, Observers and Counsellors re Letter from Philips on the signature of the ETSI IPR Undertaking bearing Bates Nos. KPNV0060679-81, dated December 21, 1993.

54. Attached as **Exhibit 51** is a true and correct copy of ETSI 19th General Assembly Temp. Doc. 18, Sophia Antipolis, 24-25 March 1994, Document for Information/Decision re

Proposed alternative course of action on IPR bearing Bates Nos. KPNV0020397-98, dated March 25, 1994.

55. Attached as **Exhibit 52** is a true and correct copy of Collective Letter No. 641 from ETSI to ETSI Members, Observers and Counsellors re The EC Committee of the American Chamber of Commerce's position regarding the Commission's Communication on IPRs and Standards Bates Nos. KPNV0020675-78, dated January 25, 1993.

56. Attached as **Exhibit 53** is a true and correct copy of ETSI 15th General Assembly ETSI/GA 15 (93) 25, Nice, 16-18 March 1993, Document for Discussion and Decision re Simplification of IP Policy bearing Bates Nos. KPNV0020390-91, dated February 10, 1993.

57. Attached as **Exhibit 54** is a true and correct copy of ETSI 15th General Assembly ETSI/GA 15 (93) 30, Nice, 16-18 March 1993, Document for Discussion and decision re Comments on the most recent version of the ETSI IPR Policy bearing Bates Nos. KPNV0043474-503, dated February 11, 1993.

58. Attached as **Exhibit 55** is a true and correct copy of ETSI 20th General Assembly (Extraordinary Meeting on IPR matters), Cannes-Mandelieu, 22 July 1994, Document for Information/Discussion/Decision re Final Report of the Special Committee on IPR bearing Bates Nos. KPNV0043172-81, dated July 5, 1994.

59. Attached as **Exhibit 56** is a true and correct copy of ETSI 20th General Assembly (Extraordinary Meeting on IPR matters), Cannes-Mandelieu, 22 July 1994, Document for Discussion re IPR Undertaking bearing Bates No. KPNV0020478, dated July 22, 1994.

60. Attached as **Exhibit 57** is a true and correct copy of ETSI Collective Letter 995 to ETSI Members, Observers and Counsellors re ETSI IPR Undertaking bearing Bates Nos. KPNV0043302-04, dated July 28, 1994.

61. Attached as **Exhibit 58** is a true and correct copy of ETSI Collective Letter 1017 to ETSI Members, Observers and Counsellors re Vote on ETSI IPR Undertaking bearing Bates No. KPNV0020706, dated September 5, 1994.

62. Attached as **Exhibit 59** is a true and correct copy of Cartwright, et al., "The Law of Contract, The General Regime of Obligations, and Proof of Obligations, The New Provisions of the Code civil" bearing Bates Nos. KPNV0046069-124, dated February 10, 2016.

63. Attached as **Exhibit 60** is a true and correct copy of Old French Civil Code, As of 1st July 2013 bearing Bates Nos. KPNV0045843-46066, dated July 1, 2013.

64. Attached as **Exhibit 61** is a true and correct copy of Bore, "La Cassation en Matier Civile," Section 79-151 bearing Bates Nos. KPNV0046130-32, dated April 2015.

65. Attached as **Exhibit 62** is a true and correct copy of Atias, et al., "Copropriété des immeubles bâtis, statut et structures - Répertoire de droit immobilier", Sections 173 and 174 bearing Bates Nos. KPNV0045548-52, dated January 2018.

66. Attached as **Exhibit 63** is a true and correct copy of Dutheil, "Droit Des Associations Et Fondations," pp. 35 bearing Bates Nos. KPNV0045535-37, dated 2016.

67. Attached as **Exhibit 64** is a true and correct copy of Cour d'appel de Paris, 17 September 1996, No. 94/23858, Roy v. Association La grande loge féminine de France bearing Bates Nos. KPNV0045546-47, dated September 17, 1996.

68. Attached as **Exhibit 65** is a true and correct copy of ETSI SMG ETSI/SMG (97) 5 Part A, Meeting No. 24, Madrid, 15th-19th December, 1997, Executive Summary SMG#24 bearing Bates Nos. TELIT1708_020670-855, dated December 15, 1997.

69. Attached as **Exhibit 66** is a true and correct copy of SMG#24 Tdoc SMG 930/97 Madrid, 15th - 19th December, 1997, Questions on IPR Issues bearing Bates Nos. TELIT1708_020653-67, dated December 11, 1997.

70. Attached as **Exhibit 67** is a true and correct copy of Transcript of Hearing from Conversant Wireless Licensing S.A.R.L. v. Apple Inc. bearing Bates Nos. KPNV0037772-97, dated August 4, 2020.

71. Attached as **Exhibit 68** is a true and correct copy of Opinion and Order As To Bench Trial Together With Supporting Findings of Fact and Conclusion of Law, Optis Wireless Technology, LLC, et al. v. Apple Inc., 2:19-cv-00066, dated January 22, 2021.

72. Attached as **Exhibit 69** is a true and correct copy of Optis Cellular Technology LLC, et al. v. Apple Retail UK Limited, et al. [2021] EWHC 1739 (Pat), Approved Judgment, dated June 25, 2021.

73. Attached as **Exhibit 70** is a true and correct copy of excerpts of U.S. Patent No. 7,089,028, dated August 8, 2006.

74. Attached as **Exhibit 71** is a true and correct copy of excerpts of U.S. Patent No. 8,134,929, dated March 13, 2012.

75. Attached as **Exhibit 72** is a true and correct copy of excerpts of U.S. Patent No. 8,195,216, dated June 5, 2012.

76. Attached as **Exhibit 73** is a true and correct copy of excerpts of U.S. Patent No. 9,178,577, dated November 3, 2015.

77. Attached as **Exhibit 74** is a true and correct copy of excerpts of U.S. Patent No. 9,635,599, dated April 25, 2017.

78. Attached as **Exhibit 75** is a true and correct copy of excerpts of U.S. Patent No. 10,257,814, dated April 9, 2019.

Date: August 23, 2023

/s/ Lucas I. Silva
Lucas I. Silva